CRITICAL STUDY OF LEGAL AND REGULATORY ISSUES OF EMERGING ECONOMIC FRAUDS IN IMMEDIATE PAYMENT SERVICE TRANSACTIONS

SHORT SYNOPSIS

Submitted in partial fulfillment of the requirement of the degree of

DOCTOR OF PHILOSOPHY

by

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DECLARATION BY THE SCHOLAR

I hereby declare that the short synopsis entitled "Critical study of Legal and regulatory issues of emerging economic frauds in Immediate Payment Service Transactions" being submitted in partial fulfillment of the requirement for the degree of Doctor of Philosophy in the Department of Law under the School of Law of Manav Rachna University, Faridabad during the academic year 2023-2024

It is the work that is expected to be carried out under the supervision of Dr. Manisha Narula, Associate Professor, School of Law, Manav Rachna University.

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ABSTRACT

Immediate Payment Services has grown and developed as an integral stage for rapid transactions in India laterally with the spectacular rise in digitalization of financial transactions. When it comes to shaping and regulating financial systems, there comes the vulnerable countless types of economic frauds which constitute considerable complications with respect to legal and regulatory framework regardless of the velocity and facile functioning of IMPS transactions. This study scrutinizes the legal and regulatory intricacies of the developing and growing economic frauds in IMPS transactions. The frequent exploitation of flaws in the verification procedure, the scanty cybersecurity safeguarding process and human mistakes are the results of the widespread frauds comprising phishing attempts, identity theft, fraudulent financial transfers and many more. Such impediments if addressed are needed to be looked at through a diversified approach which incorporates both legal and regulatory initiatives and thus there is an immediate and urgent requirement for law that are strong enough to expose and proscribe almost all kinds of financial fraud in IMPS transactions. From a legislative view, authorities need to accentuate on improving standards of cyber security and should contrivance well-built authentication processes. The paramount for initiating preventing solutions with respect to emerging threats is the cooperation among financial regulators, financial institutions and cyber security professionals. This research emphasizes the essential need of providing education in the field.

Keywords: Immediate Services, Payment Services, Financial fraud, Cyber security, online payments, Banking Rules.

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1. INTRODUCTION

1.1. Introducing the landscape - Immediate Payment Service Transactions (IMPS):

The National Payments Corporation of India (NPCI) is a regulating body that oversees the payments for the retail customers and the transaction platforms within India. It was instituted by the “Reserve Bank of India (RBI)” and the “Indian Banks' Association (IBA)” under the “Payment and Settlement Systems Act”, 2007, with the primary purpose of establishing a formidable financial and banking settlement infrastructure in India. Over the past few decades, the NPCI has had a considerable and substantial influence on the country's retail payment processing systems. The Immediate Payment Service (IMPS) of India has rendered and evinced it a worldwide leader in immediate retail payments. The Unified Payments Interface (UPI) is an unprecedented and extraordinary payment system product, whereas the Bharat Bill Payment System (BBPS) is now in the pilot stage of development i.e. in the stage of implementation. Nowadays, “IMPS has approximately 240 active members, including banks and PPIs as per the report of Indian Institute of banking and finance”. This functionality and service is offered by NPCI via its current NFS switch. In order to engage and captivate in IMPS, banks must hold a valid banking or prepaid payment mechanism license from the Reserve Bank of India.

1.2. IMPS: New fuel of the world

Immediate Payment Service transactions are the new fuel of the era and known nowadays as the ammunition in the developing areas of online technology, gigantic amounts of information, and artificial intelligence. Cyberspace has also progressed and has evolved into an endangered resource precisely as per its widespread utilization by governments, corporations, individuals and universities for many purposes. Immediate Payment Service transactions are currently the new assets and the fortune of every state, organization, and individual. In the global digital era, Immediate payment services have embellished as the new business at present but with this rise in the vast majority of crimes including data theft or breaches has also evolved.

1.3. Cyber Crime

Cybercrime is rapidly expanding and growing into a vast global concern, and the conventional criminal justice system is not that much sufficient to solely and entirely compete while comprehending, evaluating, and executing cybercriminals. India has now emerged and has become the second-largest internet user population in the whole world and so along with this it has to consider and deal with a catastrophic cybercrime issue as well. The total number of cybercrimes that are recorded and targeted across the country are increasing with each passing year and the assortment and melange of infractions, on the other hand of offenses, are unpredictably fluctuating and differing from insignificant fraudulent transactions on the internet in raffling with frauds. Interestingly, it appears that the banking and financial sectors are the sectors which are highly and most extensively targeted. With the outbreak and upsurge of the coronavirus in the year 2019 and the shift of the culture and a switch to the online services mode has widened and increased the risk to a higher extent.

The NCRB i.e. National Crime Records Bureau released its latest statistics and information which states that, “Cyber crimes in India are escalated by 24% in 2022 as compared to 2021, whereas the other kinds and categories of crime, that involve economic crimes (11%), crimes against senior citizens (9%), and the crimes against women (4%), are also having an increasing graph”. As per the report of 'Crime in India', “65,893 cybercrime cases were filed, which represents a 24.4% rise as compared to the 52,974 instances in 2021. The crime rates in this category climbed from 3.9 lakh people in 2021 to 4.8 lakh people in 2022. During 2022, 64.8 percent of the total cybercrime cases reported were for fraud (42,710 out of 65,893 cases), followed by extortion which included 5.5 percent i.e. 3,648 instances and sexual exploitation which included 5.2 percent i.e. 3,434 incidents, according to the report”.

1.4. Economic Crimes

Economic crimes have evolved into an international epidemic pervading as corporations have advanced as well as revolutionized and digitization and cyberspace have been introduced and like any other country, India endures unwavering the effects of economic crime. The findings of PwC's Global Economic Crime Survey states that over 52 percent of Indian business organizations have implications for economic crimes. PwC’s Global Economic Crime Survey

studies and states that, "approximately 67% of the Indian organizations which endured fraud had reported that the most disruptive incident came through an external attack or collusion between the external and the internal sources. The proportion mentioned was almost around 56% in our 2020 survey.

1.5. Cyber Economic Crimes

Financial crime is in the 21st century. The most prevalent varieties of cybercrime. The loss in terms of economics is a tremendous and gigantic outcome of the Cybercrime. The most highlighting and attention seeking attribute connected with such crime is that it is transnational, which means that it is borderless and this is the reason why the typical distinctive geographic borders do not smear to such an offense in question. Cybercrime is very specific and in itself is very capable of being executed anywhere in the world along with the sponsorship of the government.

1.6. Challenges of Criminal Justice System

In the administration of the constitutionality in India, the demonstration and exemplification evidently shows the inadequacy and scantness of the criminal justice system. Particularly in instances involving the financial assets, the traditional and conserved legal obligations morally impact the criminal justice system which due to 'evidence beyond doubt' can be exceptionally high. A major crisis of optimism is being encountered worldwide. Banks and financial institutions execute tremendously from frauds executed by debtors who are routinely colluding with the banks and the workers of the banks and despite all this still fraud in financial transactions does not constitute or initiate a criminal offense. Fraud cases have rocketed over the previous decade in ‘n’ numbers. Until and unless the fraud is lawfully restrained, this delicate and exquisite circumstance might jack up to unrest at any instant.

1.7. Financial Fraud and its ugly tentacles

The deliberate and intentional conduct of deceit is termed as Financial Fraud which encompasses and hedges in economic transactions for the purpose of private gain. Protracted articulations with financial groups and guidance from attorneys frequently get involved when there arises challenging and extended procedure in terms of a series of identity or financial

theft which are sustained and endured. While taking the authenticity of the financial sector into consideration, one encounters that it is greatly affected by the financial fraud which has the potential to shake up the economic systems and thus it deteriorates investor reliability, resulting in heightened governing scrutiny. Perhaps it is an essential requirement from the governments to allocate resources significantly to eradicate fraud and rehabilitate those affected, redirecting funding away from other essential areas.

1.8. Understanding the need for investigating fraud in IMPS transactions:

Unorganized sector including independent businesses, small space enterprises and also street sellers is the gigantic component on which the Indian Financial system completely depends and such sectors are the ones who constantly favour cash transactions as they denote it as the seamless experience provider with respect to the need to counteract taxes or regulatory focus. Immediate Payment Services have provided customers exceptional amenity in the world of financial transactions, though there are some substantial issues also along with the advancement of technology for both customers and regulatory agencies. This need to understand the need for investigating fraud in IMPS transactions is to identify and expound a research gap in the existing literature with respect to the legal aspects of rising frauds in the immediate payment services transactions. Despite knowing the fact of universality of digital banking, the legal frameworks governing cross border IMPS transactions are falling short in terms of imparting in fraud prevention.

While taking into consideration the speedy expansion of online payment methods, Immediate payment services have apparently become the most opted method of financial transaction all around the world. Along with the advantages and benefits of IMPS, there comes the fraudulent activities such as identity theft, phishing scams, etc which jeopardizes the integrity of IMPS transactions. There are various researches and studies which focus on the technological elements regarding the security of IMPS but if we talk about the legal implications of growing scams, the study still remains void. There is lack of insights into the legal concepts and notion regarding the existing research and investigation procedure that govern responsibility allocation, as well as the potency of existing legal frameworks to cope with changing fraud schemes. The increase and the switch towards digitalization in banking also requires flexible regulation which can timely acknowledge emerging dangers as the

legislation already in existence with respect to combating frauds in Immediate payment services is limited and scanty. Thus there is an urgent requirement for research that can estimate the effectiveness of regulatory bodies in demoralizing and intimidating fraudulent behaviour and conserving consumer interests. There is a proportionate difference in terms of the unexplored field of legal research with respect to the prevalence of flaring up of frauds in IMPS transactions.

2. DESCRIPTION OF BROAD AREA

The broader area of my short synopsis titled "Critical study of Legal and regulatory issues of emerging economic frauds in Immediate Payment Service Transactions", is "Banking, Corporate, Finance and Securities Law" which focuses on banking and transaction frauds. The study delves into the realm of Immediate payment services transactions, specifically focussing on frauds in web economy and cash free society. It confers the necessity of IMPS applications, presuming that it serves hassle free and well regulated transactions, intensifying on security prospects consorted with Unified Payments Interface. Additionally, the study explores the issues related to money transfers and safeguarding of UPI applications, emphasizing on the ultimate requirement for the enhancements in the security measures regarding detection of fraudulent transactions and cybercrime issues. This study aspires to inscribe the safety hazards and offer keys to upgrade the security of IMPS transactions.

3. LITERATURE REVIEW

3.1 Articles:

- In the article of L.S. Hoskote titled as **"Crime and Security in Electronic Banking"**, the author addresses the trajectory of financial transactions, financial services, and fund transfers, including atm machines. However, with the widespread adoption of electronic money, challenges of technology-enhanced criminality have emerged. In his paper, the author discusses the evolution of financial transactions from the initial stages of barter to the adoption of e-banking but the regulatory issues which e-banking is facing in the current era is not discussed by the author.
- In the article of Dr. Roshan Lal and Dr. Rajni Saluja, titled as **"E-Banking: The Indian Scenario"**, the authors have remarked that financial services recently with the

advancements in technology have now become accessible round the clock, and with just one click. We encounter a smaller amount of money in our pocketbooks than debit/credit cards. As a consequence, the advent of technological innovations has been obligated for a significant portion of the enhancements. IT has improved our banking system and services, but it has also been facing pillage from cybercrime. The author in the article has been criticized for being ineffective in combating cybercrime and providing potential solutions.

- The study in the paper **"How to Report Cyber Crimes in Indian Territory"** by Ompal, Tarun Pandey, and Bashir Alam, explores the tweaks in the banking sector prompted by the latest advances in technology. The research highlights the transition from physical to cyber-related hazards in financial institutions. The paper also analyzes the role of several globally recognized organizations in combating cybercrime, including those in India. The authors in this paper have covered the role of organizations in combating cybercrime but have unfortunately failed in addressing the suggestions for combating the same.
- In the research paper of Ashu Khannaand and Bindu Arora, titled as **"A study to investigate the reasons for bank frauds and the implementation of preventive security controls in the Indian banking industry, 2009"**, the authors focused on the underlying causes of bank frauds, but fell short to tackle the significance of raising alerts and ensuring strict internal mechanisms for regulation. Bank personnel have little knowledge of fraud and have adverse assessments towards RBI procedures. The Reserve Bank of India's requirements concerning training, competition, and compliance remain inadequate. However, the report does not suggest any legislative alterations.
- In the research paper of Zarka Zahoor and Karuna, titled as**"Challenges in Privacy and Security in Banking Sector and Related Countermeasures, 2016",** the authors announced banking is increasingly reliant on technology, particularly the internet. Unfortunately, with this, cybercrimes relating to banks are expanding tremendously. The financial institutions sector exhibits a multitude of cyber-attacks on security and the privacy of information, incorporating fraudulent online payments, encrypted internet banking transactions, and electronic cards. The study conducted suggests that

these financial services are most often driven by obtaining sensitive data or stealing money from banks. However, the method by which they operate is not described by the author, which might aid in combating problems.

- As noted in Aaron M. French's (2012) paper, **"A Case Study on E-Banking Security- When Security Becomes Too Sophisticated for the User to Access Their Information",** entities, more specifically those in online banking, prioritizes external security over internal security. Additional security measures may provide an inaccurate impression of security for consumers, as internal security constitutes a bigger risk than exterior security. This paper seeks for boosting knowledge of internal dangers while implementing security solutions, which might involve laws, regulations, and protocols. Online banks and entities ought to prioritize confidentiality of users while evaluating all security measures. The study suggests that entities should strike an appropriate equilibrium between security and user-friendliness, rather than restricting access to information. The author through this paper has suggested solutions for the authorities to strike an appropriate balance but has fallen short of suggesting the consumers to tackle the concerned issue.
- In the article of Dr. A. Prasanna **"Cyber Crime: Law and Practice"**, the author covers numerous different kinds of cyber fraud coupled with associated situations. As stated in the study, the Information Technology Act of 2000 fails to sufficiently tackle cyber fraud. The Indian Penal Code might apply to some types of cybercrime. Despite existing regulations, there still exists a need for improvement to address the distressing increase in crime. The author in his work, has mentioned the loopholes of the legislating authorities but failed to suggest how the authorities will overcome the same.
- As suggested by Seema Goel in the article **"Cyber-Crime: A Growing Threat to Indian Banking Sector"**, regulatory agencies should reconsider targeting banks and large monetary institutions with new digital crimes. Cyber hackers are perpetually going to seek financial benefit. To tackle cyber fraud, law governing bodies are required to create novel approaches before it leads to legal concerns for regulators. The author in his paper has advised that the novel approach should be followed but

the means and ways of following or ideas of directing such approach to be followed is not mentioned by the author.

- In the article titled **"Electronic Fraud (Cyber Fraud) Risk In The Banking Industry, Zimbabwe"**, the author, Shewangu Dzomira, addressed the issues encountered by banks when grappling with electronic fraud. Given that technological innovation has transformed lifestyles of individuals easier, it might even contribute to negative repercussions. Banks encounter obstacles such as technological pitfalls, lack of consciousness and perception, followed by paucity of legal laws. Considering the simple fact that the article recognised numerous types of electronic fraud, it failed to devote adequate consideration to the primary components of fraud..
- In the research entitled **"The Effects of Cyber Threats on Customer Behaviour in e-Banking Services"**, conducted by Liaqat Ali, Faisal Ali, Priyanka Surendran, and Bindhya Thomas, the authors illuminate digital crimes as an enormous concern in the global digital banking sector. Banking institutions are obligated to be aware of cyber dangers and implement adequate security measures to ensure economic prosperity. Comprehending cyber fraud manoeuvres is imperative in grasping concerns regarding security. The study conducted paves the way for potential inquiries into the manoeuvres used by predators in other unforeseen circumstances. The author's research study highlights cyber threats and banking institutions' responsibility to be aware of them. However, no specific actions or policies are proposed to assist banks in meeting these requirements.
- As stated in Soni R.R. and Soni Neena's article **“An Investigative Study of Banking Cyber Frauds with Special Reference to Private and Public Sector Banks”**, privately owned financial institutions do not adhere to basic security measures, while public sector banks keep performing conventional strategies. The article distinguishes between bank fraud inflation rates across both private and public financial institutions and runs into a suggestion that private institutions are more inclined to perpetrate fraud. The author has distinguished between public and private banks and the weight each bank carries in constituting cyber fraud but has failed to mention the measures and precautions which can be implemented by the banks in order to prevent the upsurge of Cyber crime.

- The findings in **“Cyber Crime in Banking Sector"**, by the author Sanchi Agarwal, emphasizes that banks continue to elevate the caliber of their offerings and amenities through technological advances, but digital theft still remains a concern. According to the author, establishing cyber cells for surveillance of crime is unlikely to result in an elevated reporting criminal activity due to far-flung locations or lack of familiarity with reporting procedures. The author further adds that the IT Act fails to sufficiently address extra-territorial jurisdictional challenges as well. Surprisingly, this research provides no guidance adding to the current requirements of the IT Act.

3.2. Books:

- In the book of Karishma Bhandari and Harvinder Soni, titled as **"Indian Banking Sector: Then, Now, and the Road Ahead"**, the author highlights the financial sector in Indian history and the way it evolved with money lenders accumulating deposits and emitting receipts in their stead. The confiscation of banks constituted a noteworthy transition of banking standards. The integration of finance and innovation have driven enormous modifications in the banking sector. Technological innovation constitutes a substantial part in increasing productivity and providing efficient customer service. The author has addressed every facet of innovation in technology but failed to focus on the economic scams that accompanied this innovation and advancement.
- In the book of Grabosky and Walkley (2007), titled as **“International Handbook of Computer Crime and White Collar Crime”**, the researchers chronicled that digital and white collar crimes were once conceived to be crimes without perpetrators, however with the tremendous quantities of money involved, such offences have grown to involve a considerable number of victims. Wide-ranging financial frauds have been extensively scrutinized, along with the variables that contribute to them. The researcher explains how the enforcement reacts to white-collar crime, as well as diverse conceptual strategies, legislative and regulatory views, and accessible judicial systems. The reduction and prevention of cyber and white-collar crime was considered by the researchers but they blurred out the very focus of the study that is to counter the issues of IMPS frauds and provide legal suggestions for the same.

- In the book of Madharva Somo Sundaram and Umarhathab (2011), titled as **"Cyber Crime and Digital Disorder"**, the researchers delineated that the law making bodies have been frequently proactive in combating Cyber fraud matters and thus they must be efficiently trained with the thorough and augmented knowledge of Cyber security in order to efficiently cope with such issues systematically. However, the study omitted any ideas for authority training.

4. RESEARCH GAP

Several research initiatives have been undertaken to explore consumers' preferences for logging into online banking activities and safeguarding personal credentials in order to mitigate fraud. These research efforts deliver beneficial perspectives into maintaining the integrity of IMPS systems, but frequently overlook the legal frameworks that regulate such transactions. A thorough evaluation of research publications demonstrates a paucity of academic attention on the legal aspects of frauds in IMPS transactions. The present research on IMPS transactions focuses primarily upon technical components such as security measures, encryption techniques, and risk reduction tactics. The researcher envisions shedding a spotlight on this specific component of rising frauds in IMPS transactions and its prevention. This work emphasizes the need for interdisciplinary learning that incorporates legal viewpoints into the discussion of IMPS security.

5. RESEARCH OBJECTIVES

- To comprehend the notion of IMPS Fraud
- To analyze different banking procedural malfunctions in electronic banking transactions.
- To assess the current framework in conditions of IMPS fraud, in addition to the problems encountered by investigating and prosecuting authorities, with respect to proposing possible remedies.
- To find the ramifications of UPI, IMPS AND NFS transactions in India between before and after COVID – 19.
- To examine the major initiatives & schemes launched by the government of India to regulate IMPS transactions.

6. RESEARCH METHODOLOGY

The present research is an attempt to study the legal and regulatory issues of emerging economic frauds in IMPS transactions. The researcher plans to adopt an empirical and doctrinal method for completing entire research work. The research will be based on both primary and secondary data. For that primary source resorts to formulating a well-defined questionnaire to gather primary data from IMPS users and the banks. For secondary sources,

that comprise the study included acts of parliament, Legislations, Regulations, notices, and orders made by the RBI over time. Case studies, conventions, legislation, and judgements from many different countries pertaining to cyber fraud. Furthermore, citation of other judgements issued by Indian and international courts regarding instances of bank fraud committed via the internet, such as phishing, cheating, credit/debit card frauds/vishing, and so on. The majority of the secondary data will be gathered from a variety of reliable sources such as the Reserve Bank of India's Bulletin and Reports, reports from various commissions and committees on money and finance, reports from various banks in India and abroad, articles and papers from various websites, national and international journals, magazines, and books.

7. RESEARCH QUESTIONS

The research questions for the research are:

1. What are the legal frameworks pertaining to frauds in IMPS transactions at Indian level?
2. What are the initiatives which have been taken for prevention of IMPS fraud?
3. While banks are strengthening their security systems under RBI oversight, what are the underlying causes for procedural lapses in e-banking, contemplating technological, human and regulatory, and systemic factors?
4. To what extent do RBI guidelines functionally safeguard bank clients from cyber fraud, pondering their implementation and aftermath on reducing incidents?
5. What are the socio-legal and economical rights of the victims of IMPS fraud?

8. HYPOTHESIS

The hypothesis for the research are:

1. The precipitous rise in cyber fraud triggers an imminent threat to ensuring the safety of digital financial transactions.
2. The currently prevailing statutory structure is inefficient for encountering digital fraud in banking.

3. There is a strong relationship between the emergence of economic frauds and contributing factors of COVID-19
4. Government has taken few measures but with little success to protect consumers of IMPS transactions.
5. There is a substantial link between the complexity of government regulations and surveillance of digital payment systems and the prevalence of fraud in IMPS transactions.

9. TENTATIVE CHAPTERIZATION

Chapter 1: Exploring IMPS – Concept, Meaning & Evolution

This chapter will provide insights into the idea and significance of Immediate Payment Service (IMPS), following its development from origin to the present. It will investigate the fundamental concepts and technological breakthroughs of IMPS.

Chapter 2: Unraveling economic frauds through IMPS Transactions

This chapter will describe various government schemes for promotion of Digital Transaction. It will investigate several sorts of fraud that might occur underneath the IMPS framework.

Chapter 3: Navigating Legal and Regulatory Framework for IMPS

This chapter will probe more into the legal and regulatory framework that governs IMPS transactions. It will examine the role of regulatory organizations, compliance standards, and enforcement methods for ensuring the integrity and security of IMPS operations.

Chapter 4: Assessing the impact of government schemes on IMPS

This chapter will investigate the links between IMPS and other government programmes, such as financial inclusion efforts, subsidy disbursements, and digital payment campaigns. Case studies will highlight successful implementations and suggest possible areas for improvement.

Chapter 5: A comparative study of IMPS before and after the COVID era: insights from survey data

This chapter will analyze the pandemic's influence on customer behaviour, adoption rates, transaction volumes, and the broader ecology of IMPS services. The outcome of this

computation will provide insights into IMPS's resilience and flexibility in the face of extraordinary challenges.

Chapter 6: Conclusion and Suggestions

The concluding segment will summarize major results from the preceding chapters to descend to general findings regarding the function and relevance of IMPS in today's financial world. Furthermore, concrete proposals and recommendations will be made to improve the efficiency, security, and inclusiveness of IMPS services, assuring their ongoing relevance and resilience in the future.

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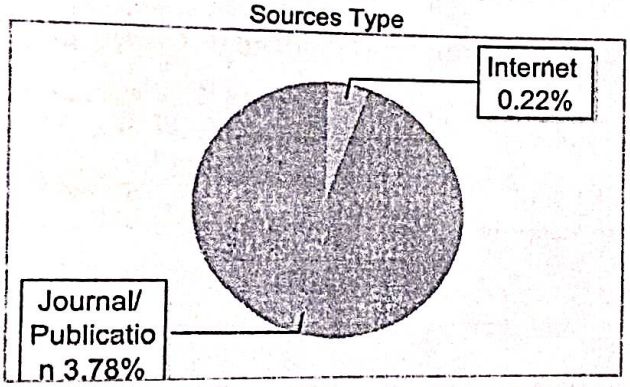

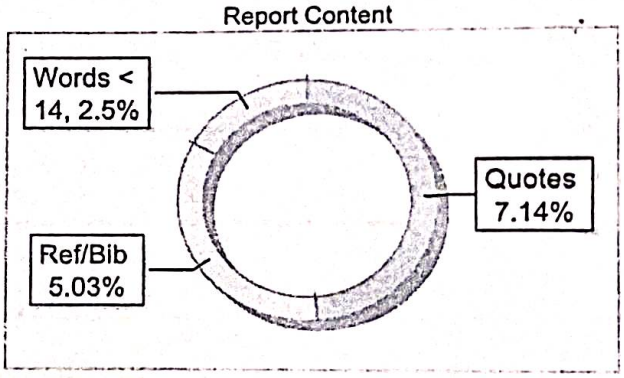

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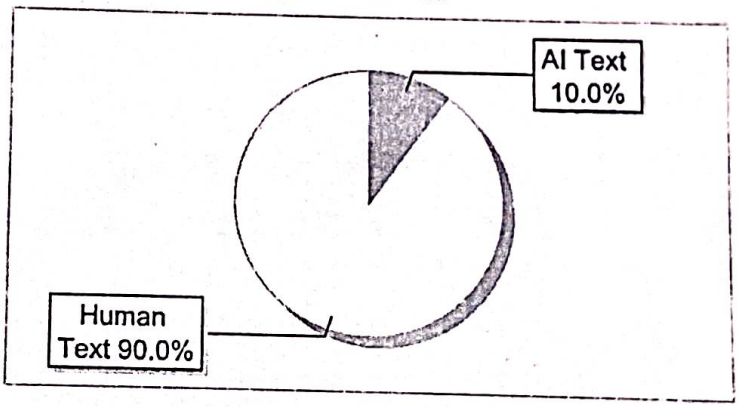

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